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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )

Amendment of Part 90 of the )  
Commission's Rules to Provide )  
for the Use of the 220-222 MHz Band )  
by the Private Land Mobile )  
Radio Service )

PR Docket No. 89-552  
RM-8506

Implementation of Sections 3(n) and 332 )  
of the Communications Act )

GN Docket No. 93-252

Regulatory Treatment of Mobile Services )

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Implementation of Section 309(j) of the )  
Communications Act -- Competitive )  
Bidding, 220-222 MHz )

PP Docket No. 93-253

**To: The Commission**

**COMMENTS**

PageMart Operations, Inc. ("PageMart"), by its attorneys and pursuant to Second Memorandum Opinion and Order and Third Notice of Proposed Rulemaking ("NPRM") FCC 95-312 released August 28, 1995, hereby submits its Comments in the above referenced NPRM relating to the 220-222 MHz band.

**Introduction**

PageMart appreciates the opportunity to participate in this NPRM and commends the Commission on its goal in this proceeding of establishing flexibility

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in the licensing of 220-222 MHz, eliminating the unnecessary regulatory burdens and thus enhancing the competitive potential of 220 MHz service.

While there are many important issues relating to the 220-222 MHz licensing scheme in the NPRM, PageMart will only comment upon several specific areas of its interest, including that of elimination of existing channel use restrictions, i.e., the “data only” and “non-trunked” channel designations; the modifications to existing rules regarding fixed operations and paging operations; and aggregation of all of a licensee's authorized channels to operate on channels wider than five KHz; and the extension to all 220-222 MHz licensees the Part 22 renewal standards adopted in the Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, GN Docket No. 93-252, Third Report and Order, 9 FCC Rcd 7988 (1994)(“CMRS Third Report and Order”) for Part 90 CMRS services.

### **Background**

At the time of adoption of the final rules in the Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Services, Report and Order, 6 FCC Rcd 2356 (1991), the Commission allocated two MHz of spectrum divided into 400 five KHz-wide frequencies paired to create 200 narrowband channels. 140 of those channels were dedicated to local use of which 20 were set aside for data operations, 10 channels being immediately available. On May 1, 1991, PageMart, Inc., predecessor of PageMart Operations, Inc., filed its applications in the 220-222 MHz band for data operations. On October 19, 1992, the Commission conducted a lottery for the local 220-222 MHz private land mobile channels and PageMart was selected as tentative selectee in various markets. The authorizations for these facilities were granted in the period between April, 1993 and April 1994. Since that time, the Commission has extended the construction dates for the 220-222 MHz facilities three times, most recently to December 31, 1995.

This background is by way of stating that PageMart's -- and the other permittees' - applications were filed more than four years ago, the authorizations were granted more than two years ago and presently it is anticipating construction four and a half years after the filing of its applications. During that time frame, much has changed in the telecommunications arena with respect to subscribers' needs, services offered and technological advances. Thus, PageMart's goals and objectives for its 220-222 MHz frequencies have changed over the course of those years. It welcomes the opportunity to discuss its views concerning specific Commission proposals.

### **Discussion**

#### **Phase II Licensing. Non-Nationwide licensing**

##### **1. Elimination of existing channel use restrictions.**

PageMart believes, as does the Commission, that the best use of spectrum should be determined by the marketplace. accordingly. subscriber demand for services should dictate whether a 220 MHz frequency should be used for data or for voice -- not FCC Rule requirements.

In discussions with Commission staff members, PageMart was able to determine that there are no technical requirements which determined the designation of data or voice restrictions and that voice or data could be provided over any of the 220-222 MHz frequencies. Thus, this designation came from a policy determination in 1991 relating to the varied use of the frequencies. Since the current Commission's policy is to favor market demands, it is fitting that such designations should be eliminated. Accordingly, PageMart favors the elimination of the current data-only channel allocation in the Phase II 220-222 MHz licensing. PageMart urges that the Commission eliminate these designations for existing permittees as well. since based on PageMart's analysis of the current 220-222 MHz market, it would construct non-data 220-222 MHz systems if the

## **2. License Term.**

PageMart supports the Commission's proposal to adopt 10-year license terms for both Economic Areas ("EA") and regional 220-222 MHz licenses. This, as the Commission points out in the NPRM, would bring 220-222 MHz licensees in line with existing CMRS licensees and it would minimize the administrative burden on the Commission and on all of the 220-222 MHz licensees.

### **Technical and Operational Rules**

**Allowing fixed and paging operations for all 220 MHz licensees without requiring that such use be on an ancillary basis to land mobile operations:**

PageMart agrees with the Commission in that it should remove restrictions from the 220-222 MHz band in order to effectively compete with the many other service providers in the mobile communications marketplace. The lifting of the restriction on primary fixed use and expanding the 220-222 MHz services beyond mobile operations only increases the flexibility of service providers to respond to the types of services the consumer demands.

Likewise, the lifting of restrictions on paging-only operations in the 200-222 MHz band will increase the range of services that a 220-222 MHz provider can offer. Permitting such services will allow the operator to gauge the market and emphasize the types of consumer interest that can be beneficial both to the public and to the provider, while eliminating the prospect of fallow frequencies or administrative burden in connection with waiver requests.

Thus, PageMart supports both of these Commission proposals.

### **Application Procedures**

**Extension to all 220 MHz licensees the Part 22 renewal standards adopted in the CMRS Third Report and Order for Part 90 CMRS services.**

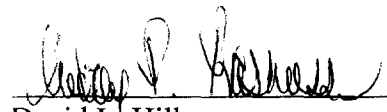
PageMart supports the Commission proposal to afford 220-222 MHz licensees a renewal expectancy, if the licensee can demonstrate that it has provided sound, favorable quality service and has complied with FCC Rules, policies and the Communications Act of 1934. Based on that demonstration which reflects provision of quality service to the public and compliance with the FCC Rules, the licensee should be given a renewal expectancy to the same degree as other CMRS licensees. This also would bring 220-222 MHz licensees in line with existing CMRS licensees and it also would minimize the administrative burden on the Commission and on all of the 220-222 MHz licensees.

### **Conclusion**

PageMart Operations, Inc. urges the Commission to ensure that 220-222 MHz service providers competing in the same markets with other CMRS providers are subject to the same rules; to remove unnecessary regulatory burdens on the 220-222 MHz providers; and to permit the 220-222 MHz providers to use their facilities and spectrum flexibility to offer the greatest variety and number of innovative services to the public.

Respectfully submitted,

**PAGEMART OPERATIONS, INC.**



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